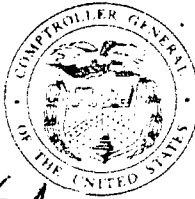


DECISION



Shun K
16092
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

[Protest Against Agency Rejection of Proposal]

FILE: B-200093

DATE: February 11, 1981

MATTER OF: Moore-Johnson/Shotwell-Anderson, Inc.

DIGEST:

DLG 06057

1. Award is not deficient where there is not adequate price competition as required by DAR § 3-807.1(b)(1). DAR § 3-807 merely states price and cost evaluation techniques that may be employed in that event.
2. DAR § 2-407.9, dealing with contracting officer's responsibility to determine cause of limited number of responses to solicitation, pertains to procurement by formal advertising and only addresses corrective action for future procurements.
3. Contracting officials are accorded considerable range of judgment and discretion in carrying out evaluation of proposals and fact that protester disagrees with agency's evaluation does not establish that evaluation had no reasonable basis.
4. Where RFP indicated that in evaluating proposal offeror's understanding of problem and comprehensiveness of technical approach would be taken into consideration, it was appropriate to consider proposed level of effort and cost in evaluating understanding notwithstanding there was no man-year level of effort and budget range stated in RFP.
5. Protester has not sustained burden of proving that agency did not inform it of deficiencies in proposal before requesting best and final offer where there are conflicting statements by contracting agency and protester.

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6. Preaward survey clause conditioning performance of survey upon favorable consideration of proposal has no application where proposal was determined to be technically unacceptable.
7. Where protester contends without support that successful offeror was not responsive to RFP, it has not made showing that contracting agency was arbitrary or unreasonable in its determination of acceptability.

Moore-Johnson/Shotwell-Anderson, Inc. (MJS AI) ~~pro~~
[protests the rejection of its proposal and the
award of a contract to Management Planning Services
(MPS) under request for proposals (RFP) DADA13-80-
R-0019 issued by the Purchasing and Contracting
Office, Madigan Army Medical Center (MAMC), Tacoma,
Washington, for an economic study of means of im-
proving the delivery of health care services in
the area served by MAMC.)

DLG 06058

DLG 06059

[The MJS AI proposal, one of the two received
under the RFP, was rejected by the contracting
officer because:

"* * * it did not adequately describe
how the work would be accomplished
or provide a definitive explanation
of the approach to key analytical
aspects of marginal cost, capitation
budgeting and/or facility utilization.]

[The proposed price and manhours of
effort were lower than the Independent
Government Estimate, and similarly
low when compared with work of a
similar nature being accomplished
in the area.]

MJS AI has protested the rejection on a number
of grounds. As indicated below, we do not consider
the protest to have merit.

[The protester suggests that the award was deficient because there was not adequate price competition as required by Defense Acquisition Regulation (DAR) § 3-807.1(b)(1) (1976 ed.) and the contracting officer made no attempt to determine the cause of the limited number of responses as required by DAR § 2-407.9 (1976 ed.). However, DAR § 3-807.7(a)(1) does not make an award deficient where there is not adequate price competition. While adequate price competition is desirable, it is not required.] In that connection DAR § 3-807 provides the price and cost evaluation techniques that may be employed on the successful offer where there is not adequate price competition. Further, [DAR § 2-407.9 by its own terms pertains to procurement by formal advertising,] as opposed to procurement by negotiation, [and only addresses "corrective action for future procurements," not the one in which few bids were received.]

[MJSAI disagrees with the contracting agency's technical evaluation of its proposal. It believes that it adequately described how the work would be accomplished and provided adequate definitive explanations and adequate man-hours and pricing.] However, [contracting officials are accorded a considerable range of judgment and discretion in carrying out an evaluation and the fact that the protester disagrees with the agency's evaluation does not establish that the evaluation had no reasonable basis.] INTASA, B-191877, November 15, 1978, 78-2 CPD 347.

In this regard, we note, for example, that the protester attempts to show that its proposal is adequate by comparing it to the successful proposal. [It argues that the number of man-hours in the MJSAI proposal is "essentially the same" as those in the MPS proposal.] However, the record shows that MPS proposed 2,054 man-hours while MJSAI's revised proposal offered 1,800 man-hours. Further, while the protester claims that the level of expertise and the project organization are "approximately the same" in both proposals, MJSAI acknowledges that it offered two senior professionals, whereas MPS proposed five. In the circumstances, [there is a difference between the two proposals which would

provide the contracting agency a reasonable basis to conclude that MJSAI made something less than an adequate proposal in comparison to the higher rated MPS proposal.)

(The protester suggests that the rejection of its proposal was improper because it was based in part upon a man-year level of effort and dollar range which was not stated in the RFP. However, the RFP did indicate that in evaluating the proposal, the offeror's understanding of the problem and the comprehensiveness of the technical approach would be taken into consideration.) It was appropriate for the contracting agency to consider the proposed level of effort and cost in evaluating the offeror's understanding of the project to be undertaken.

(The protester alleges that it was not advised of the deficiencies in its proposal before it was requested to furnish a best and final offer. However, the contracting agency states that MJSAI was informed of the areas of deficiency in its proposal before the best and final offer was requested.) Under these circumstances, MJSAI has not sustained the burden of proving that the agency did not inform it of the deficiencies in its proposal. Arthur Young and Company, B-196220, March 17, 1980, 80-1 CPD 205; R.L. Banks, B-186942, August 2, 1977, 77-2 CPD 66.

(The protester complains that MAMC did not conduct a preaward survey of the MJSAI facility to determine its ability to perform the services as required by the preaward survey clause in the RFP.) That clause stated that, if a proposal is favorably considered, a survey team might contact the offeror to determine its ability to perform. (Since MJSAI's proposal was determined to be technically unacceptable, the clause has no application.)

(MJSAI contends that the MPS proposal should not have been accepted because it was not responsive to the RFP in that several work steps in the RFP were not included in its proposal.) MJSAI does not identify which work steps were omitted. (It is not the function of our Office to evaluate proposals

and make determinations as to their acceptability.] INTASA, supra. [That is the function of the contracting agency. The determination of the contracting agency will not be disturbed absent a clear showing that the determination was arbitrary or unreasonable.] TM Systems, Inc., 56 Comp. Gen. 300, 306, (1977), 77-1 CPD 61. Since MJSAI alleges without support that MPS omitted work steps from its proposal, it has not made a showing that the contracting agency was arbitrary or unreasonable in its determination.

[The protest is denied.]

Shilton J. Fowler

For the Comptroller General
of the United States